

**REPORT OF THE LEADER OF THE COUNCIL
EAST MIDLANDS DEVELOPMENT CORPORATION – INTERIM VEHICLE
THE ESTABLISHMENT OF EM DEVCO LIMITED - COMPANY LIMITED BY GUARANTEE**

Purpose of the Report

1. The purpose of this report is to set out the background, progress to date and expected benefits of the East Midlands Development Corporation Programme, known as “The Alchemy Project”.
2. The Committee is asked to approve the establishment of an Interim Vehicle (EM Devco Limited), to maintain momentum prior to a Statutory Development Corporation being created by Parliament.
3. Approval is also sought for the Council to contribute £1.5m in £0.5m annual funding contributions (2021-2024). To be reviewed at the end of year 1 and 2 against progress and relevant milestones in the Company’s Business Plan

Information

4. An executive summary legal report and a risks table are included in an **exempt appendix**, which is not for publication by virtue of paragraphs 3 and 5 of Schedule 12A of the Local Government Act 1972. Having regard to the circumstances, on balance the public interest in disclosing the information does not outweigh the reason for exemption because divulging the information would significantly damage the Council’s commercial position and impact information to which legal professional privilege applies.

Background

5. In February 2019 the Government approved funding for a 2 year programme to explore the business case for a locally led development delivery vehicle for the East Midlands and asked the Midlands Engine to lead the work. The Midlands Engine was asked to consider three locations in the East Midlands: specifically, Ratcliffe on Soar Power Station site, Toton and Chetwynd Barracks (both in Nottinghamshire), and East Midlands Airport (in Leicestershire). The programme is also considering how the Development Corporation can have wider application across the East Midlands as a whole. Further background to the East Midlands Development Corporation (EMDC) programme was reported earlier in the year at Policy Committee in February 2020.
6. The Development Corporation programme is overseen by an Oversight Board (The Alchemy Board) supported by an Executive Group. The Alchemy Board is made up of Leaders from the

region's upper tier local authorities and directly affected districts alongside private sector; business community; central Government; LEP's; and university representatives. The Executive Group is a smaller group of executive officers. Both are chaired by Sir John Peace, as chairman of the Midlands Engine. Anthony May (Chief Executive of Nottinghamshire County Council and Chair of the Midlands Engine Operating Board) is the Senior Responsible Officer and Ken Harrison is the Programme Director. To avoid any conflicts of interest, the County Council has been represented at officer level by the Deputy Chief Executive and Corporate Director for Place, Adrian Smith

7. The overall ambition of the EMDC is to supercharge a new era of growth for the regional economy by enabling projects which build directly on the potential of HS2, the region's status as a major trade and logistics gateway and its historic strengths in research and development and industrial innovation; particularly research and innovation related to the emerging low carbon economy.

Progress to date

8. Significant progress has been made in considering the strategic and economic case for the Development Corporation, with the evidence pointing to transformational benefits for the region, with 84k jobs, £4.8bn Gross Value Added (GVA) and at least 4,500 homes to be delivered.
9. The EMDC will contribute substantially to inclusive, zero carbon growth and levelling up by initially realising the enormous potential of the three key sites:
 - HS2 Hub at Toton & Chetwynd - a new destination for knowledge-driven jobs and an exemplar zero carbon mixed-use community, showcasing next generation living, with a HS2 hub station offering unrivalled connectivity.
 - Ratcliffe Power Station and East Midlands Airport Area that together will provide a demonstrator for new technologies and methods of:
 - production and energy generation and supply;
 - transport and digital connectivity;
 - a proposal to be the UK's only Inland Freeport with the Country's largest and only 24-hour dedicated air freight hub being its main entry point to the freeport;
 - a global multi-modal hub and centre for trade and logistics with substantial housing growth proposed across the wider area; and
 - creation of ZERO on the Ratcliffe Power Station site, an international centre for the development of market-ready zero emission technologies.
10. Work is continuing on the preparation of the detailed business case, which will set out to Government how it meets the criteria for public-sector intervention. It will establish a case for change, a value for money assessment, commercial viability, financial affordability, and a route to delivery. It is anticipated that this will be submitted to Government in March 2021.
11. There has been an ongoing and positive dialogue with Government regarding the most appropriate legislative pathway to establish this new type of Development Corporation:

- a. In January 2020, the Midlands Engine responded to the Ministry of Housing, Communities and Local Government (MHCLG) 'Development Corporation Reform: Technical Consultation';
 - b. In July 2020 the Secretary of State confirmed his support for the establishment of an Interim Vehicle, to continue to build momentum prior to the creation of a statutory Development Corporation; and
 - c. In August 2020, the [Planning White Paper consultation "Planning for the Future"](#) includes positive reference to the Development Corporation work on page 69 with the following statement:
"As we bring forward planning reform, we also want to ensure we have in place the right delivery mechanisms, including development corporations. A good example that we are already progressing is development at Toton in the East Midlands, where we have announced our intention to support the establishment of a development corporation to maximise the area's international links and create tens of thousands of new homes and jobs. We want to see more schemes of this kind, backed by modern delivery models, around the country."
12. The Parliamentary processes required to establish a new type of Development Corporation will take time and at the July meeting of the Alchemy Board, partners endorsed the establishment of an Interim Vehicle to maintain momentum, subject to approval of the five directly affected Local Authorities.

Benefits for Nottinghamshire

13. In addition to the broad programme benefits outlined above, there are a number of specific benefits for each of the five local authority areas. For Nottinghamshire the identified benefits for the Toton and Chetwynd and Ratcliffe on Soar sites, include:
- Delivering an internationally significant zero carbon community of 4,500 homes, an Innovation Hub of 6,000 jobs, and a National Skills Academy for inclusive growth at Toton & Chetwynd.
 - Delivering the UK Biodiversity Hub and Innovation Campus to become the UK centre of excellence for skills and businesses in carbon zero and sustainable technologies.
 - Retaining and enhancing the special qualities of our existing communities.
 - Linking with and supporting local bids to the Future High Streets Fund and Towns Fund.
 - Transforming Ratcliffe-on-Soar Power Station into ZERO, a centre for the development of market-ready zero emissions technologies with the capacity to create up to 20,000 jobs.
 - A seamless transition from operational power station to global destination for the development of technologies which drive new markets with long-term economic potential for the UK economy.
 - A world-class green and blue environmental investment programme with Research & Development in climate change and zero carbon.
 - Transforming connectivity and accessibility through key infrastructure and investment in major infrastructure improvements including a new link road to Toton Station; multi-modal links to and from the station; better access to the M1 and the strategic road network.
 - Environmental programmes including the enhancement of the river corridors and integrated cycling and walking improvements.

Progress towards establishing the Development Corporation

14. The initial stages of the programme highlighted the lack of any off-the-shelf model in statute to deliver the region's aspirations for a locally led approach of the kind envisaged. Instead a new model of governance is required, a Locally Led Urban Development Corporation (LLUDC).
15. The Midlands Engine instructed Pinsent Masons to provide legal advice in relation to this matter. Pinsent Masons have given detailed advice in relation to the various potential options for establishing a Development Corporation and four key features were identified as needing to be satisfied:
- To be locally led in order to better meet the needs of the local area. An Oversight Authority is proposed, comprised of Local Authority membership to have oversight of the Development Corporation.
 - To have wide financial powers so as to be able to access a wide range of funding including private and public equity and debt finance, and grants and other investments. It is also proposed that the Development Corporation be given powers to become a community infrastructure levy charging authority.
 - To have two streams of planning powers. Firstly, plan-making powers, and secondly operational and enforcement powers to include the ability to approve planning applications.
 - To be able to undertake delivery of projects and infrastructure, including the ability to determine planning applications and grant development orders. This will avoid multiple applications to separate Local Authorities where applications span more than one Local Authority area.
16. A number of existing forms of vehicles were considered with a view to meeting these requirements:
- A simple joint venture – considered to be inappropriate because it would not have the requisite power to progress this project with the complex make up of authorities and stakeholders involved.
 - A Locally Led New Town Development Corporation – whilst this enjoys many of the powers identified for this project it would not, under existing legislation, have plan making or planning enforcement powers or the power to become a community infrastructure levy (CIL) charging authority and so is limited in the funding streams it may be able to access.
 - An Urban Development Corporation – there are many benefits to this form of vehicle, however the Secretary of State has the power to give binding directions with which the vehicle must comply and so it does not have the benefit of being truly locally led.
 - A Development Consent Order – these vehicles can have wider ranging powers but do have restrictions in terms of transport and economic development powers.

Formation of a Locally Led Urban Development Corporation

17. As none of the above existing vehicles are considered to meet all of the requirements of the proposed Development Corporation, a new form of *Locally Led Urban Development Corporation* is proposed. This will require new primary legislation to be passed by Parliament. It is considered that this will offer the greatest benefits to the local authorities going forwards. A number of other local authorities across the Country, and the Midlands, are following our

work closely, seeking to adopt the new model once on statute, and learn from the innovative practice developed in the East Midlands.

Power to Establish the Development Corporation

18. The power to establish the proposed form of Development Corporation will come through primary legislation, in a similar way to the current forms of Urban Development Corporation and Locally Led New Town Development Corporation. In both of those cases there is primary legislation in place which broadly provides a power to the Secretary of State to designate an area for the relevant purpose and to establish the relevant vehicle by way of an order of the Secretary of State. Such an order will provide certain powers to the vehicle established by the order, with the Secretary of State potentially being able to exclude powers. Depending on the nature of the vehicle proposed there are differences as to the process to be undertaken and also the nature of the order that may be made by the Secretary of State. In both cases Parliamentary approval of the order is required.
19. The proposal for the new form of Development Corporation follows a similar process. Primary legislation will be required in order to provide the Secretary of State with the power to designate an area and establish a Development Corporation by way of an order. Parliamentary approval of the proposed order will be required.
20. As such, the Council will not take a formal decision to establish the proposed Development Corporation; it will be a matter for the Secretary of State with the approval of Parliament. The Secretary of State will however be required to consult in relation to the designation of an area and the making of an order to establish the Development Corporation. The Council will have the opportunity to respond to that consultation with a view to shaping the nature of the Development Corporation and the powers afforded to it and may also make proposals directly to the Secretary of State in relation to the Development Corporation.
21. The possibility of the primary legislation itself establishing the Development Corporation without further steps being required by the Secretary of State is being explored. However, whether this is required will depend on how the primary legislation progresses.
22. Early involvement through the Interim Vehicle will be beneficial to the Council in helping it to shape the nature of the proposed Development Corporation, in particular with a view to making the case to Government for the statutory vehicle that is truly locally led.

Establishing the Interim vehicle

23. Subject to the approval of the recommendations in this report, in order to maintain momentum whilst the legislative processes to establish the statutory Development Corporation are navigated, an Interim Vehicle, to be known as EM Devco Limited will be incorporated early in the new year 2021, in the form of a company limited by guarantee (CLG).

24. As a non-profit CLG, EM Devco Limited will have no share capital, and the Local Authorities will be the guarantee holders and therefore the 'members' of EM Devco Limited. A Local Authority cannot pass its guarantee on to another body or organisation and a member's guarantee cannot be sold in the same way that shares can. Any Local Authority may leave EM Devco Limited at any time by giving 12 months' notice to the other authorities but receives no payment for its guarantee to EM Devco Limited in that instance (indeed, the guarantee represents an obligation of the member rather than an asset, unlike shares in a company limited by shares). Should one or more Local Authorities decide to leave EM Devco Limited, there would be no obligation for the other authorities to top up funding, but financial pressures would be increased as there would be less partner contributions. In the event that the company is wound up, distribution of assets would be subject to the normal rules of insolvency law (i.e. in broad terms, paying off charge holders and creditors, then returning any remaining assets to the Local Authorities as members of the company).
25. While guarantee holders, the local authorities can exercise their control over the company in two key ways:
- By appointing a director to the independent skills led board of directors, who will oversee the operational delivery of the company; and
 - As members, the local authorities together (as the Oversight Authority) can take direction on the 'Consent Matters' set out in the Members Agreement.
26. The Interim Vehicle will not have any statutory powers, these will remain with the relevant Local Authority partner until the establishment of the statutory Development Corporation.
27. The five Local Authorities with administrative responsibilities within the current scope of the programme (Toton, Chetwynd Barracks, East Midlands Airport Area and the power station at Ratcliffe on Soar), will be the owners of the company, namely:
- Broxtowe Borough Council
 - Leicestershire County Council
 - North West Leicestershire District Council
 - Nottinghamshire County Council
 - Rushcliffe Borough Council.
28. The Interim Vehicle will mirror the intended form of the statutory Development Corporation and will consist of:
- An Oversight Authority comprising the 5 Local Authorities who will be the guarantee holders and corporate 'Members' of the CLG;
 - An independent skills-based board of directors, including up to 11 directors, made up of a combination of independent and non-independent directors - the independent directors will be appointed through an open recruitment process and the non-independent directors will be representatives from the 5 local authorities; and
 - Local delivery vehicles/ special purpose vehicles or joint ventures for each site.
29. Draft Members Agreement and Articles of Association setting out the formal constitutional arrangements for the CLG have been agreed in principle and are summarised in the executive

summary legal report **(exempt appendix)**. Separate independent external legal advice has been jointly commissioned by the two County Councils (Leicestershire and Nottinghamshire) and the three District & Borough Councils (Rushcliffe, Broxtowe and North West Leicestershire) to support the objective assessment of these proposals.

30. The executive summary legal report **(exempt appendix)** summarises the proposed arrangements relating to the establishment of EM DevCo Limited. The key matters for consideration from the Members Agreement and Articles of Association are highlighted below:
- a. In order to ensure the Interim Vehicle is appropriately resourced, it is recommended in this report that the Council makes a funding contribution of £0.5m for the financial year 2021/22. The Financial Implications section of this report provides further details on Nottinghamshire County Council's and other partners' proposed funding contributions to EM Devco Limited.
 - b. Nottinghamshire County Council will undertake the role of Host Authority for the Interim Vehicle, this will be for the purposes of back office services e.g. accommodation, HR, procurement and financial administration. The cost of this must be met by the CLG at market rates and will need to be met from the funding contributions in 2021/22 and subsequent years. Further details are provided within the financial implications section of this report.
 - c. The establishment of the Oversight Authority and an independent skills-based board of directors, as detailed in paragraph 28 above. Details of the voting arrangements for the Board are contained in the Member's Agreement and Articles of Association and summarised in the executive summary legal report **(exempt appendix)**.
 - d. The Consent Matters for agreement by the Oversight Authority i.e. the 5 Local Authorities who will own the CLG, and the voting mechanisms for agreeing these matters. As set out in the Member's Agreement and Articles of Association and summarised in the executive summary legal report **(exempt appendix)**. As an example, the business plan will require the approval of the Oversight Authority.
 - e. The key risks on establishing the Interim Vehicle and mitigations are set out in a risks table **(exempt appendix)**, a short summary of the risks can be found below:
 - Government approval for the establishment of a Statutory Development Corporation is delayed or is not forthcoming.
 - MHCLG grant funding, in the immediate or longer term does not meet the company's needs, and so the proposed activities are not delivered, or the programme does not progress beyond the initial 3-year Interim Vehicle stage.
 - There is a risk that after the initial 3-year term, further funding will be required from local authority partners to support the Development Corporation. This will need to be reviewed by each individual partner at that point in time, if required and based on outputs delivered to date. There is no commitment from Nottinghamshire County Council to fund beyond the initial three years (subject to annual review). It is expected that if a statutory Development Corporation is set up by Government in the future it will be funded and will be able to borrow and secure investment from private equity firms to deliver the ambitions.
 - Conflicts emerge within or between the Board of Directors and/or the Oversight Authority, leading to deadlock and significantly delayed progress.
31. Once established, the first key task will be to recruit Independent Directors to the Board to join the Local Authority nominated Non Independent Directors and to develop a business plan. It will be the responsibility of the Board to deliver the business plan which will need the approval

of the Oversight Authority and which will be reviewed on an annual basis. Approval will be required of the Oversight Authority for decisions that fall outside the business plan especially those which have a budgetary implication.

Legal Implications

32. Pending the creation of the hybrid Locally Led Urban Development Corporation which will require primary legislation, the intention is to establish an Interim Vehicle which, will mirror the proposed Hybrid Development Corporation. Options have been considered including limited partnerships, limited liability partnership, community benefit societies, community interest companies. Having taken advice on various options, the proposed way forward comprises a Company Limited by Guarantee as a separate legal entity distinct from its members and regulated by the Companies Act 2006. Such a Company may enter into contracts in its own name and is responsible for its own debts and liabilities subject to the liability of members limited to a nominal amount (£1). If the company is wound up the members guarantee of £1 will only be called upon if the company cannot otherwise satisfy its debts. Members of the company do not have the right to share in the profits of the company by way of dividend payments and the arrangement therefore is more akin to one of stewardship of development activities rather than an owner with entitlement to receipts.
33. The County Council has the vires to join such a Company under the provisions contained in the Localism Act 2011 which confers the power on the County Council to do anything that an individual may do subject to various statutory restrictions relating to commercial enterprise. Further details on this matter can be found in the executive summary legal report (**exempt appendix**)
34. A company limited by guarantee will be subject to governance through a Members' Agreement and Articles of Association setting out the arrangements for the company and how it will operate. The Articles govern the constitution of the Company dealing with the powers of directors, members, voting and board and member meetings. All the key issues have now been agreed in principle between the parties and the legal documents are at an advanced stage, with legal drafting details only remaining to be finalised. A delegation to the Corporate Director for Place is therefore proposed to enable final details to be approved.
35. Legal advice, in relation to state aid, has been obtained on behalf of all of the Councils from external legal advisors, Browne Jacobson. In summary they have advised it will be possible to structure the funding of the EM DevCo Limited and the project specific vehicles either by loans or by the provision of grant funding. In the case of loans, these should be at market rates and grant funding should be direct towards the "public" infrastructure activities of the EM DevCo Limited.
36. Investment from the Councils into the EM DevCo Limited should, with an important exception, be made in accordance with the Market Economy Operator Principle. In other words, as if the Councils were acting as private sector bodies. Loan funding should therefore be in line with the European Commission's reference rate table. That said, there is a reasonable amount of flexibility in decision making.

37. Other resources provided to the EM DevCo Limited, whether they are land or back office services, should be provided at market rates.
38. The important exception to funding from the Councils in accordance with the Market Economy Operator Principle applies equally to funding from MHCLG. If the funding is being applied by the EM DevCo Limited on public realm infrastructure works, infrastructure works or land remediation (in each case, provided relevant conditions are complied with) then this will not be State aid.
39. Accordingly, if the EM DevCo Limited is funded by way of loans at market rates and/or by grants to the extent that the EM DevCo Limited will be carrying out “public sector” development along the lines of public realm and other infrastructure works, then funding of the EM DevCo Limited will be State aid compliant.
40. Some grant funding may be used by the EM DevCo Limited for masterplanning and for the appointment of consultants. On balance, it would be State aid compliant to grant fund the masterplanning and consultants’ work on the basis that, the main thrust of the project activity carried out by the EM DevCo Limited is likely to be through the State aid compliant “public sector” infrastructure works and work done through the masterplanning and work done by consultants would presumably contribute towards these works being carried out. It would, however, be prudent to provide for clawback in the contractual arrangements with the EM DevCo Limited to ensure that the Councils are able to recover grant funding of the masterplanning/consultants’ work that, in the event, directly benefited direct development.
41. Any State aid will be provided after 1st January 2021. If the UK agrees a trade deal with the EU, then there is (probably) going to be a new UK subsidy regime developed. There are many questions about what that would look like, but it would be unlikely to be resolved by the end of this year, so there would have to be an interim regime. The most realistic option is likely to be to continue the current State aid regime, but for it to be enforceable domestically. The statutory instrument drafted in 2019 to provide the framework for a state aid regime should the UK leave the EU without a withdrawal agreement would work as a basis for this.
42. If there is no trade deal by the end of the year, then the State aid regime will largely fall away (at least until a deal is actually agreed). The State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 provide for this. However, Article 10 of the Protocol provides that the whole of EU state aid law, including current mechanisms of enforcement by the Commission, national courts, and the Court of Justice of the European Union (CJEU), applies to the whole UK to the extent that UK measures have a potential effect on trade in goods between Northern Ireland and the EU (in particular, of course, Ireland). Article 10 is enforceable by any person with standing (e.g. a competitor of a business benefiting from State aid falling under Article 10) in the UK courts and anyone can complain to the Commission.
43. Given the uncertainties, the advice obtained is based on State aid law as it stands currently.

Financial Implications

44. The core costs for 2019-20 and 2020-21 of the Midlands Engine Development Corporation programme so far have been funded by Government, through the MHCLG. The total funding was £2 million, spread equally across 2 years (2019/20 and 2020/21). The programme team has also received additional resources through a mix of direct funding and in kind support from partner Local Authorities.
45. The Interim Vehicle will require additional funding to bring forward the proposals. As such, in September 2020 the programme submitted a £18.6m bid to Government as part of the Comprehensive Spending Review 2020 (CSR) process to cover the first three years. Subsequently, the CSR 2020 was deferred by Government and replaced with a one year spending review, therefore, confirmation of Government Funding has been delayed.
46. The CSR proposition includes the establishment of a dedicated and focussed team and governance structure to rapidly progress delivery and undertake the following tasks, which would be crucial steps to delivering the benefits highlighted above, if funding is approved. This would include:
- Providing detailed, deliverable investment plans;
 - Establishing commercial arrangements;
 - Investing in enabling infrastructure which unlocks the key sites;
 - Acquiring and assembling the land needed for coherent delivery of homes and jobs;
 - Delivering key early outcomes:
 - 1,500 additional new homes
 - 500 jobs
 - £25m Gross Value Added (GVA) Growth per annum
 - Paving the way for statutory Development Corporation with powers and investment.
47. As outlined in the key matters for consideration above, if the recommendations in this report are approved, Nottinghamshire County Council will make a funding contribution of £0.5m for the financial year 2021/22. Subsequent £0.5m allocations for 2022/23 and 2023/24 will be subject to annual reviews by the relevant Committee at the end of year 1 and 2 against progress and relevant milestones in the Company's Business Plan. Subject to approval by individual authorities Elected Members, Leicestershire County Council will match this funding allocation and the 3 District and Borough Council's will each provide a £0.5m funding allocation over the 3 years, a total of £4.5m. Midlands Engine continues to engage Government to request funding for the Interim Vehicle, however, the outcome of a formal funding submission to Government is yet to be determined. Work is underway on scenario planning to ensure that whatever budget envelope the company has, realistic and scalable delivery plans are in place.
48. Hosting services, such as ICT, HR, procurement etc, will be provided by Nottinghamshire County Council at market rates. Provision of these services will be subject to a Service Level Agreement between the Council and the Company. The five lead councils continue to consider the most efficient way to ensure the project has an appropriate staffing establishment and project management capacity. The current team is part of the Place Department establishment, as approved by Policy Committee and the activities of the team are funded by Government; this will continue in the interim. Once agreement has been reached on the formal arrangements, this may need to be reported back to the relevant committee for further approval, subject to the preferred model and a resolution on any financial, legal or HR implications.

Other Options Considered

49. Not to establish the Interim Vehicle, but this is considered highly undesirable because momentum would stall and the deliverability of the benefits set out in this report would be put into considerable doubt. Similarly, a delay to the establishment of the Interim Vehicle until Government funding has been clarified is considered likely to impact negatively on momentum and overall delivery aspirations, as timescales for funding confirmation remain uncertain whilst the Government continues to focus on managing the COVID-19 pandemic.
50. As outlined, there is an expectation that Local Authority partners provide annual funding for the Development Corporation Interim Vehicle for its planned three years of operation. Contributing to this funding will ensure that the County Council has a seat at the table to play a key role in shaping the Development Corporation into the future to ensure the delivery of maximum benefit for Nottinghamshire and the region.
51. The alternative option for the Council is to not support this proposal. Work towards the Development Corporation could continue without the support of Local Authority partners. However, funding and local leadership for ongoing activity will be critical to achieving the sort of locally led Development Corporation which the partners aspire to. Not progressing with or delaying the Alchemy Project altogether would have significant disbenefits. There would not be the dedicated capacity to bring forward the developments and the benefits for residents would be lost.

Reason/s for Recommendation/s

52. To approve the establishment of the Interim Vehicle, facilitating the delivery of the expected benefits outlined above. If established and supported with the required resources and expertise, the Development Corporation would be in a position to attract nationally and internationally significant investment and development into the East Midlands. This type of investment is not something that Nottinghamshire County Council, other stakeholders or landowners, could attract on their own.
53. Whilst Nottinghamshire and the East Midlands is home to many highly skilled people, there remain many who have not benefited from the restructuring of the region's economy or national economic growth. It is time to level up our economy and drive up aspiration, skills, productivity and prosperity for everyone. The Alchemy Project, taken forward by the EM DevCo Limited will generate high-quality jobs, develop skills and have a lasting impact on people's lives across Nottinghamshire. Connectivity improvements will improve accessibility to the opportunities at Toton for residents of Broxtowe, Ashfield and Mansfield and supply chain businesses will support employment throughout the County. The Alchemy Project will drive inclusive growth, improving social mobility, turning around a low wage, low productivity economy to one driven by high skills and high knowledge employment.

Statutory and Policy Implications

54. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment

and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required. With regard to the public sector equality duty, it is not considered that establishing the CLG will disproportionately impact people with protected characteristics. This will be kept under review as part of the business planning process.

RECOMMENDATION/S

It is recommended that Policy Committee:

- 1) Approves the establishment of the Interim Vehicle (EM Devco Limited), to support the aspirations of the business case that is to be submitted to Government, in the form of a company limited by guarantee at the earliest opportunity in 2021 with a view to becoming fully operational by 1 April 2021;
- 2) Agrees the proposed Governance arrangements, including the board membership, voting arrangements and consent matters as set out in the report and it's exempt appendix;
- 3) Approves the Council's budgetary contribution of £0.5m per annum over 3 years, to be reviewed at the end of year 1 and 2 against progress and relevant milestones in the Company's Business Plan, with this funding allocation subject to funding contributions from the other affected Local Authorities;
- 4) Agrees the Council's participation as a founding member in the Interim Vehicle Company, it's role as host authority and the current content of the Articles of Association and Members Agreement, as summarised in the executive summary legal report (**exempt appendix**), delegating to the Corporate Director for Place, in consultation with the S.151 Officer and the Group Manager for Legal and Democratic Services, the authority to negotiate and finalise the details of those documents and authority to enter into them and all company or other documentation necessary to give effect to the proposals, provided that they remain within the approved budgetary envelope and are consistent with the risk profile referenced in the report;
- 5) Authorises the CLG; EM Devco Limited to be added to the Council's Outside Bodies Register and the Ruling Group Business Manager to make the required Member appointments to the Oversight Authority and delegates authority to the Chief Executive to make the required Officer appointments to the Board of Directors.
- 6) Agrees that periodic progress reports regarding the Company business plan and establishment of the longer term statutory Development Corporation will be brought to the relevant Committee as appropriate.

Councillor Mrs Kay Cutts MBE
Leader of the County Council

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Constitutional Comments (HD 30/11/2020)

55. The Policy Committee has the authority to determine the recommendations in this report, subject to any further approvals required in respect of the level of financial contributions for next year's budget and the MTFS.
56. The legal implications are outlined briefly in the legal implications section of the report and in more detail in the summary legal report and risk profile provided by the Council's independent external legal advisors, attached as an (exempt appendix). Committee must carefully consider all of the risks and issues highlighted and determine the appropriate resolution accordingly.

Financial Comments (NS 30/11/2020)

57. The financial implication of the County Council's proposed funding contribution to the Interim Vehicle is set out as follows. The allocations for 2022/23 and 2023/24 will be subject to annual reviews at the end of year 1 and 2 against progress and relevant milestones in the Company's Business Plan:

Financial Year	Funding Contribution
2021-22	£0.5m
2022-23	£0.5m
2023-24	£0.5m
TOTAL	£1.5m

58. Subject to approval by individual authorities Elected Members, Leicestershire County Council will match this funding allocation and the 3 District and Borough Council's will each provide a £0.5m funding allocation over the 3 years, a total of £4.5m. Midlands Engine have made representations to MHCLG regarding a substantial contribution to help meet the full cost of the Interim Vehicle and discussions are ongoing. Work is underway on scenario planning to ensure that whatever budget envelope the company has, scalable delivery plans are in place.
59. The County Council's contribution will be met from reserves.
60. Support associated with hosting services, such as ICT, HR, procurement etc, are anticipated to be up to £20,000 pa and will need to be provided at market rates.

HR Comments (GE 11/11/2020) The temporary resourcing arrangements will continue and future HR implications will be dependent on the vehicle selected. Ongoing dialogue continues with the Head of HR, Nottinghamshire County Council, to ensure any employment considerations are included at the appropriate time.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- [Midlands Engine Development Corporation Update - Policy Committee - February 2020](#)
- [Midlands Engine Development Corporation Funding and Delivery Team - Policy Committee - June 2019](#)
- East Midlands Development Corporation, Comprehensive Spending review (CSR) 2020, Proposition

Electoral Division(s) and Member(s) Affected

All